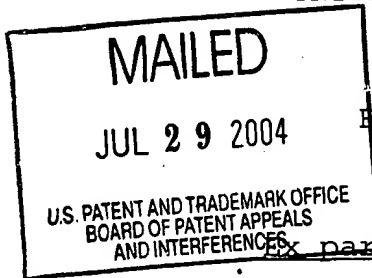


UNITED STATES PATENT AND TRADEMARK OFFICE



BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

~~Ex parte~~ ANTHONY F. HERBST and WAYNE F. PERG

Application No. 09/197,908

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on June 17, 2004. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

On August 31, 2001, appellants filed a Declaration (Paper No. 11). There is no indication from the record as to whether the examiner has considered the Declaration (Paper No. 11).

Moreover, appellants filed both a Notice of Appeal on November 19, 2002 (Paper No. 16) and an Appeal Brief on March 4, 2003 (Paper No. 18). A review of the file reveals that the requisite fee of \$160.00 (small entity fee) for filing a Notice of Appeal and Appeal Brief have not been charged. The

Application No. 09/197,908

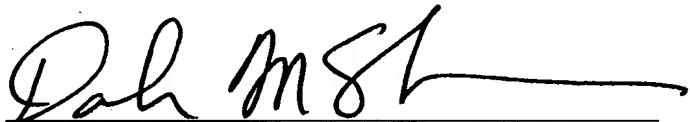
examiner should have the appropriate fee charged to Deposit
Account No. 50-0235.

Accordingly, it is

ORDERED that the application is returned to the
examiner to consider appellants' Declaration filed on
August 31, 2001 (Paper No. 11), to notify appellants in writing
of consideration, to have the requisite fee of \$160 for filing
both the Notice of Appeal (Paper No. 16) and Appeal Brief (Paper
No. 18) to Deposit Account No. 50-0235, and for such further
action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By:



DALE M. SHAW

Program and Resource Administrator
(703) 308-9797

cc: Peter K. Trzyna
P.O. Box 7131
Chicago, IL 60680

DMS/clm/dm
RA04-0693